

117TH CONGRESS
2D SESSION

S. 3641

To extend protections to part-time workers in the areas of family and medical leave and pension plans, and to ensure equitable treatment in the workplace.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2022

Ms. WARREN (for herself, Mr. BOOKER, Mr. MARKEY, Mr. PADILLA, Mr. CASEY, Mr. WHITEHOUSE, Mr. SANDERS, Mrs. MURRAY, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To extend protections to part-time workers in the areas of family and medical leave and pension plans, and to ensure equitable treatment in the workplace.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Part-Time Worker Bill
5 of Rights Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—EXPANDING ACCESS TO BENEFITS FOR PART-TIME
WORKERS

Sec. 101. Elimination of hours of service requirement for FMLA leave.
Sec. 102. Improving coverage for long-term part-time workers.

TITLE II—ENSURING FAIR TREATMENT FOR PART-TIME
WORKERS

Sec. 201. Definitions.
Sec. 202. Elimination of discrimination on the basis of hours worked.
Sec. 203. Offer of work to existing employees.
Sec. 204. Prohibited acts.
Sec. 205. Remedies and enforcement.
Sec. 206. Regulations.

1 TITLE I—EXPANDING ACCESS TO
2 BENEFITS FOR PART-TIME
3 WORKERS

4 SEC. 101. ELIMINATION OF HOURS OF SERVICE REQUIRE-
5 MENT FOR FMLA LEAVE.

6 (a) AMENDMENT.—Section 101(2)(A) of the Family
7 and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(A))
8 is amended to read as follows:

9 “(A) IN GENERAL.—The term ‘eligible em-
10 ployee’ means an employee who has been em-
11 ployed for at least 12 months by the employer
12 with respect to whom leave is requested under
13 section 102.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 101(2) of such Act (29 U.S.C.
16 2611(2)) is amended—

17 (A) by striking subparagraphs (C) and
18 (D); and

1 (B) by redesignating subparagraph (E) as
 2 subparagraph (C).

3 (2) Section 102(a) of such Act (29 U.S.C.
 4 2612(a)) is amended by striking paragraph (5).

5 (c) EFFECTIVE DATE.—The amendments made by
 6 subsections (a) and (b) shall take effect beginning on the
 7 date that is 1 year after the date of enactment of this
 8 Act.

9 **SEC. 102. IMPROVING COVERAGE FOR LONG-TERM PART-**
 10 **TIME WORKERS.**

11 (a) IN GENERAL.—Section 202 of the Employee Re-
 12 tirement Income Security Act of 1974 (29 U.S.C. 1052)
 13 is amended by adding at the end the following new sub-
 14 section:

15 “(c) SPECIAL RULE FOR CERTAIN PART-TIME EM-
 16 PLOYEES.—

17 “(1) IN GENERAL.—A pension plan that in-
 18 cludes either a qualified cash or deferred arrange-
 19 ment (as defined in section 401(k) of the Internal
 20 Revenue Code of 1986) or a salary reduction agree-
 21 ment (as described in section 403(b) of such Code)
 22 shall not require, as a condition of participation in
 23 the arrangement or agreement, that an employee
 24 complete a period of service with the employer (or

employers) maintaining the plan extending beyond
the close of the earlier of—

“(A) the period permitted under subsection
(a)(1) (determined without regard to subpara-
graph (B)(i) thereof) and section 410(a)(1) of
such Code (determined without regard to sub-
paragraph (B)(i) thereof); or

“(B) the first 24-month period—

“(i) consisting of 2 consecutive 12-
month periods during each of which the
employee has at least 500 hours of service;
and

“(ii) by the close of which the em-
ployee has attained the age of 21.

“(2) EXCEPTION.—Paragraph (1)(B) shall not
apply to employees who are included in a unit of em-
ployees covered by an agreement which the Secretary
finds to be a collective bargaining agreement be-
tween employee representatives and 1 or more em-
ployers, if there is evidence that retirement benefits
were the subject of good faith bargaining between
such employee representatives and such employer or
employers.

“(3) COORDINATION WITH OTHER RULES.—In
the case of employees who are not highly com-

1 compensated employees (within the meaning of section
2 414(q) of the Internal Revenue Code of 1986) and
3 who are eligible to participate in the arrangement or
4 agreement solely by reason of paragraph (1)(B):

5 “(A) EXCLUSIONS.—An employer may
6 elect to exclude such employees from the deter-
7 mination of whether the plan that includes the
8 arrangement or agreement satisfies the require-
9 ments of subsections (a)(4), (k)(3), (k)(12),
10 (k)(13), (m)(2), (m)(11), and (m)(12) of sec-
11 tion 401 of such Code, section 410(b) of such
12 Code, and section 416 of such Code. If the em-
13 ployer so excludes such employees with respect
14 to the requirements of any such provision, such
15 employees shall be excluded with respect to the
16 requirements of all such provisions. This sub-
17 paragraph shall cease to apply to any employee
18 as of the first plan year beginning after the
19 plan year in which the employee completes 1
20 year of service (without regard to paragraph
21 (1)(B) of this subsection).

22 “(B) TIME OF PARTICIPATION.—The rules
23 of subsection (a)(4) and section 410(a)(4) of
24 the Internal Revenue Code of 1986 shall apply
25 to such employees.

1 “(4) 12-MONTH PERIOD.—For purposes of this
 2 subsection, 12-month periods shall be determined in
 3 the same manner as under the last sentence of sub-
 4 section (a)(3)(A), except that 12-month periods be-
 5 ginning before January 1, 2022, shall not be taken
 6 into account.”.

7 (b) VESTING.—Section 203(b) of the Employee Re-
 8 tirement Income Security Act of 1974 (29 U.S.C.
 9 1053(b)) is amended by redesignating paragraph (4) as
 10 paragraph (5) and by inserting after paragraph (3) the
 11 following new paragraph:

12 “(4) PART-TIME EMPLOYEES.—For purposes of de-
 13 termining whether an employee who is eligible to partici-
 14 pate in a qualified cash or deferred arrangement or a sal-
 15 ary reduction agreement under a plan solely by reason of
 16 section 202(c)(1)(B) has a nonforfeitable right to em-
 17 ployer contributions—

18 “(A) except as provided in subparagraph (B),
 19 each 12-month period for which the employee has at
 20 least 500 hours of service shall be treated as a year
 21 of service; and

22 “(B) 12-month periods occurring before the 24-
 23 month period described in section 202(c)(1)(B) shall
 24 not be treated as years of service.

1 For purposes of this paragraph, 12-month periods shall
 2 be determined in the same manner as under the last sen-
 3 tence of section 202(a)(3)(A), except that 12-month peri-
 4 ods beginning before January 1, 2022, shall not be taken
 5 into account.”.

6 (c) PENALTY.—Section 502 of the Employee Retire-
 7 ment Income Security Act of 1974 (29 U.S.C. 1132) is
 8 amended by adding at the end the following new sub-
 9 section:

10 “(n) REQUIREMENTS RELATING TO PART-TIME EM-
 11 PLOYEES.—In the case of a plan that fails to permit par-
 12 ticipation as required by section 202(c), the Secretary may
 13 assess a civil penalty against the plan sponsor in an
 14 amount equal to \$10,000 per year per employee to whom
 15 such failure relates. The Secretary may, in the Secretary’s
 16 sole discretion, waive or reduce the penalty under this sub-
 17 section if the Secretary determines that the plan sponsor
 18 acted reasonably and in good faith.”.

19 **TITLE II—ENSURING FAIR** 20 **TREATMENT FOR PART-TIME** 21 **WORKERS**

22 **SEC. 201. DEFINITIONS.**

23 In this title:

1 (1) EMPLOY.—The term “employ” has the
2 meaning given the term in section 3(g) of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 203(g)).

4 (2) EMPLOYEE.—The term “employee” means
5 an individual who is—

6 (A) an employee, as defined in section 3(e)
7 of the Fair Labor Standards Act of 1938 (29
8 U.S.C. 203(e)), who is not covered under any of
9 subparagraphs (B) through (G), except that a
10 reference in such section to an employer shall
11 be considered to be a reference to a person in
12 commerce described in paragraph (3)(A);

13 (B) a State employee described in section
14 304(a) of the Government Employee Rights Act
15 of 1991 (42 U.S.C. 2000e–16c(a));

16 (C) a covered employee, as defined in sec-
17 tion 101 of the Congressional Accountability
18 Act of 1995 (2 U.S.C. 1301), except that such
19 term shall not include an applicant for employ-
20 ment;

21 (D) a covered employee, as defined in sec-
22 tion 411(c) of title 3, United States Code;

23 (E) a Federal officer or employee covered
24 under subchapter V of chapter 63 of title 5,
25 United States Code; or

(F) an employee of the Government Accountability Office.

(3) EMPLOYER.—The term “employer”—

(A)(i) means any person in commerce that—

(I) employs more than 15 employees described in paragraph (2)(A), which shall be calculated by including all employees described in paragraph (2)(A) performing work for compensation on a full-time, part-time, or temporary basis, except that if the number of such employees who perform work for such a person for compensation fluctuates, the number may be determined for a calendar year based upon the average number of such employees who performed work for the person for compensation during the preceding calendar year; or

(II) is part of an integrated enterprise, chain of businesses, group of franchises associated with a franchisor, or network of franchises that, in the aggregate, employs more than 15 employees, calculated in accordance with subclause (I);

(ii) includes—

1 (I) any person who acts, directly or
2 indirectly, in the interest of such an em-
3 ployer to any of the employees (described
4 in clause (i)) of such employer; and

5 (II) any successor in interest of such
6 an employer; and

7 (iii) includes an agency described in sub-
8 paragraph (A)(iii) of section 101(4) of the
9 Family and Medical Leave Act of 1993 (29
10 U.S.C. 2611(4)), to which subparagraph (B) of
11 such section shall apply;

12 (B) is an entity employing a State em-
13 ployee described in section 304(a) of the Gov-
14 ernment Employee Rights Act of 1991 (42
15 U.S.C. 2000e–16c(a));

16 (C) is an employing office, as defined in
17 section 101 of the Congressional Accountability
18 Act of 1995 (2 U.S.C. 1301);

19 (D) is an employing office, as defined in
20 section 411(c) of title 3, United States Code;

21 (E) is an employing agency covered under
22 subchapter V of chapter 63 of title 5, United
23 States Code; or

24 (F) is the Comptroller General of the
25 United States.

1 (4) PERSON.—The term “person”, except as
 2 used with the term “person in commerce”, has the
 3 meaning given the term in section 3(a) of the Fair
 4 Labor Standards Act of 1938 (29 U.S.C. 203(a)).

5 (5) PERSON IN COMMERCE.—

6 (A) IN GENERAL.—The term “person in
 7 commerce” means any person who is engaged
 8 in commerce, in any industry or activity affect-
 9 ing commerce, or in the production of goods for
 10 commerce.

11 (B) COMMERCE.—In subparagraph (A),
 12 the term “commerce” includes government.

13 (6) SECRETARY.—The term “Secretary” means
 14 the Secretary of Labor.

15 **SEC. 202. ELIMINATION OF DISCRIMINATION ON THE BASIS**
 16 **OF HOURS WORKED.**

17 (a) RULE.—

18 (1) IN GENERAL.—An employer shall not dis-
 19 criminate against an employee on the basis that
 20 such employee is scheduled to work fewer hours per
 21 week, or is employed for a shorter expected duration,
 22 than another employee of the employer if the jobs of
 23 such employees require substantially equal skill, ef-
 24 fort, responsibility, and duties and such jobs are per-
 25 formed under similar working conditions.

1 (2) EXAMPLES.—Discrimination described in
 2 paragraph (1) shall include differential treatment
 3 with respect to—

4 (A) rate of compensation;

5 (B) notice of, and input into, work hours;

6 (C) eligibility to accrue, on a pro rata
 7 basis, employer-provided paid and unpaid time
 8 off and other benefits;

9 (D) promotion opportunities; or

10 (E) other terms, conditions, or privileges of
 11 employment.

12 (b) DISTINCTIONS PERMITTED.—This section shall
 13 not be construed to prohibit differences in rate of com-
 14 pensation, or other conditions, terms, or privileges of em-
 15 ployment, of employees of an employer for reasons other
 16 than the number of hours the employees are scheduled to
 17 work per week, or the expected duration of employment
 18 of the employees, including for reasons such as—

19 (1) the date on which the employees are hired;

20 (2) a merit system; or

21 (3) a system that measures earnings by quan-
 22 tity per hour or quality of production.

23 **SEC. 203. OFFER OF WORK TO EXISTING EMPLOYEES.**

24 (a) WRITTEN STATEMENTS REQUIRED.—

1 (1) IN GENERAL.—Upon hiring an employee, an
2 employer shall—

3 (A) obtain a written statement of the em-
4 ployee’s desired number of weekly work hours
5 and the days and times the employee is avail-
6 able to work;

7 (B) notify the employee that this written
8 statement may be modified in writing at any
9 time during employment; and

10 (C) specify the process to modify the writ-
11 ten statement.

12 (b) OFFER OF DESIRED WEEKLY WORK HOURS TO
13 EXISTING EMPLOYEES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), an employer shall schedule an employee
16 of the employer to work the number of weekly hours
17 identified by the employee as desired weekly hours in
18 a written statement under subsection (a) prior to
19 hiring any new employee from an external applicant
20 pool, including hiring through the use of a tem-
21 porary services or staffing agency, or contracting
22 with a contractor or subcontractor, to work such
23 hours.

24 (2) EXCEPTIONS.—An employer may hire an
25 individual as a new employee, or engage a contractor

1 or subcontractor, to perform work for the employer
2 if—

3 (A) the employer needs to fill hours for
4 which no employees of the employer who have
5 provided written statements under subsection
6 (a) are available based on such written state-
7 ments;

8 (B) all employees of the employer who
9 have provided written statements under sub-
10 section (a) lack, and cannot obtain with reason-
11 able training, the qualifications necessary to
12 perform the work; or

13 (C) scheduling any such employee to per-
14 form the work would require providing such em-
15 ployee overtime compensation at a rate not less
16 than one and one half times the regular rate at
17 which the employee is employed, in accordance
18 with section 7 of the Fair Labor Standards Act
19 of 1938 (29 U.S.C. 207) or any State law.

20 (c) COMPENSATION REQUIRED.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), an employee (referred to in this sub-
23 section as an “existing employee”) who is not sched-
24 uled for the desired number of total weekly work
25 hours identified by the employee in a written state-

1 ment under subsection (a) shall be compensated for
2 each hour worked by a newly hired employee, con-
3 tractor, or subcontractor hired after the existing em-
4 ployee so identified such number of hours, during an
5 hour that such existing employee identified in a writ-
6 ten statement under such subsection as an hour for
7 which the employee is available to work.

8 (2) EXCEPTION.—An employer shall not be re-
9 quired to compensate an existing employee under
10 paragraph (1) for any hour of work for which—

11 (A) the employee lacks, or cannot obtain
12 with reasonable training, the qualifications nec-
13 essary to perform the work;

14 (B) scheduling such employee to perform
15 the work would require providing the employee
16 overtime compensation as described in sub-
17 section (b)(2)(C);

18 (C) the employer made a reasonable at-
19 tempt to contact the employee to work such
20 hour and was unable to reach the employee; or

21 (D) the employee was otherwise no longer
22 available.

23 (d) DEFINITION.—For purposes of this section, the
24 terms “written”, with respect to a statement, and “writ-

1 ing” mean a printed or printable communication in phys-
 2 ical or electronic form.

3 **SEC. 204. PROHIBITED ACTS.**

4 (a) INTERFERENCE WITH RIGHTS.—It shall be un-
 5 lawful for any employer to interfere with, restrain, or deny
 6 the exercise or the attempt to exercise, any rights set forth
 7 under this title.

8 (b) RETALIATION PROHIBITED.—It shall be unlawful
 9 for any employer to discharge, threaten to discharge, de-
 10 mote, suspend, reduce work hours of, or otherwise dis-
 11 criminate (including taking any other adverse employment
 12 action) against any person because of an employee of the
 13 employer exercising the rights of the employee under this
 14 title or opposing any practice made unlawful by this title.

15 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
 16 IES.—It shall be unlawful for any person to discharge or
 17 in any other manner discriminate against an individual be-
 18 cause such individual—

19 (1) has filed any charge, or has instituted or
 20 caused to be instituted any proceeding, under or re-
 21 lated to this title;

22 (2) has given, or is about to give, any informa-
 23 tion in connection with any inquiry or proceeding re-
 24 lating to any right provided under this title; or

1 (3) has testified, or is about to testify, in any
2 inquiry or proceeding relating to any right provided
3 under this title.

4 **SEC. 205. REMEDIES AND ENFORCEMENT.**

5 (a) INVESTIGATIVE AUTHORITY.—

6 (1) IN GENERAL.—To ensure compliance with
7 this title, including any regulation or order issued
8 under this title, the Secretary shall have, subject to
9 paragraph (3), the investigative authority provided
10 under section 11(a) of the Fair Labor Standards
11 Act of 1938 (29 U.S.C. 211(a)).

12 (2) OBLIGATION TO KEEP AND PRESERVE
13 RECORDS.—

14 (A) IN GENERAL.—Each employer shall
15 maintain for a period of not less than 3 years,
16 or for the duration of any claim (including the
17 duration of a related civil action or investiga-
18 tion) pending pursuant to this title, whichever
19 is longer, all records necessary to demonstrate
20 compliance with this title, including compliance
21 with the requirements of regulations issued by
22 the Secretary under section 206. Such records
23 shall include documentation of offers of hours
24 of work to employees and responses to such of-
25 fers.

1 (B) COPIES.—Each employer shall, upon a
 2 reasonable request of an employee of the em-
 3 ployer, provide the employee with a copy of the
 4 records described in subparagraph (A) relating
 5 to the employee.

6 (3) REQUIRED SUBMISSIONS GENERALLY LIM-
 7 ITED TO AN ANNUAL BASIS.—The Secretary shall
 8 not require, under the authority of this subsection,
 9 any employer to submit to the Secretary any books
 10 or records more than once during any 12-month pe-
 11 riod, unless the Secretary has reasonable cause to
 12 believe there may exist a violation of this title, in-
 13 cluding any regulation or order issued pursuant to
 14 this title, or is investigating a charge pursuant to
 15 subsection (c).

16 (4) SUBPOENA POWERS.—For the purposes of
 17 any investigation provided for in this subsection, the
 18 Secretary shall have the subpoena authority provided
 19 for under section 9 of the Fair Labor Standards Act
 20 of 1938 (29 U.S.C. 209).

21 (b) CIVIL ACTION BY EMPLOYEES.—

22 (1) LIABILITY.—

23 (A) IN GENERAL.—Any employer who vio-
 24 lates section 202, 203, or 204 (each such provi-
 25 sion referred to in this section as a “covered

1 provision”) shall be liable to any person af-
2 fected for—

3 (i) damages equal to the amount of—

4 (I) any wages, salary, employ-
5 ment benefits (as defined in section
6 101 of the Family and Medical Leave
7 Act of 1993 (29 U.S.C. 2611)), or
8 other compensation denied, lost, or
9 owed to such employee by reason of
10 the violation; or

11 (II) in a case in which wages,
12 salary, employment benefits (as so de-
13 fined), or other compensation have
14 not been denied, lost, or owed to the
15 employee, any actual monetary losses
16 sustained by the employee as a direct
17 result of the violation;

18 (ii) interest on the amount described
19 in clause (i) calculated at the prevailing
20 rate;

21 (iii) except as provided in subpara-
22 graph (B), an additional amount as liq-
23 uidated damages equal to the sum of the
24 amount described in clause (i) and the in-
25 terest described in clause (ii); and

1 (iv) such equitable relief as may be
 2 appropriate, including employment, rein-
 3 statement, and promotion.

4 (B) EXCEPTION FOR LIQUIDATED DAM-
 5 AGES.—If an employer who has violated a cov-
 6 ered provision proves to the satisfaction of the
 7 court that the act or omission which violated
 8 the covered provision was in good faith and that
 9 the employer had reasonable grounds for believ-
 10 ing that the act or omission was not a violation
 11 of a covered provision, such court may, in the
 12 discretion of the court, reduce the amount of li-
 13 ability under subparagraph (A) to the amount,
 14 interest, and equitable relief determined under
 15 clauses (i), (ii), and (iv), respectively.

16 (2) RIGHT OF ACTION.—An action to recover
 17 the damages, interest, or equitable relief set forth in
 18 paragraph (1) may be maintained against any em-
 19 ployer (including a public agency) in any Federal or
 20 State court of competent jurisdiction by any one or
 21 more employees for and on behalf of—

22 (A) such employees; or

23 (B) such employees and any other employ-
 24 ees similarly situated.

1 (3) FEES AND COSTS.—The court in such an
2 action shall, in addition to any judgment awarded to
3 the plaintiff, allow a reasonable attorney’s fee, rea-
4 sonable expert witness fees, and other costs of the
5 action to be paid by the defendant.

6 (4) LIMITATIONS.—The right provided by para-
7 graph (2) to bring an action by or on behalf of any
8 employee shall terminate on the filing of a complaint
9 by the Secretary in an action under subsection (c)(4)
10 in which a recovery is sought of the damages, inter-
11 est, or equitable relief described in paragraph (1)(A)
12 owing to an employee by an employer liable under
13 paragraph (1) unless the action is dismissed without
14 prejudice on motion of the Secretary.

15 (c) ACTIONS BY THE SECRETARY.—

16 (1) ADMINISTRATIVE ACTION.—The Secretary
17 shall receive, investigate, and attempt to resolve
18 complaints of violations of this title in the same
19 manner that the Secretary receives, investigates, and
20 attempts to resolve complaints of violations of sec-
21 tions 6 and 7 of the Fair Labor Standards Act of
22 1938 (29 U.S.C. 206 and 207), and may issue an
23 order making determinations, and assessing a civil
24 penalty described in paragraph (3) (in accordance

1 with paragraph (3)), with respect to such an alleged
2 violation.

3 (2) ADMINISTRATIVE REVIEW.—An affected
4 person who takes exception to an order issued under
5 paragraph (1) may request review of and a decision
6 regarding such an order by an administrative law
7 judge. In reviewing the order, the administrative law
8 judge may hold an administrative hearing con-
9 cerning the order, in accordance with the require-
10 ments of sections 554, 556, and 557 of title 5,
11 United States Code. Such hearing shall be conducted
12 expeditiously.

13 (3) CIVIL PENALTY.—

14 (A) IN GENERAL.—An employer who will-
15 fully and repeatedly violates—

16 (i) section 204(a) shall be subject to
17 a civil penalty in an amount to be deter-
18 mined by the Secretary, but not to exceed
19 \$100 per violation (subject to subpara-
20 graph (B)); or

21 (ii) subsection (b) or (c) of section
22 204 shall be subject to a civil penalty in an
23 amount to be determined by the Secretary,
24 but not to exceed \$1,100 per violation
25 (subject to subparagraph (B)).

1 (B) INFLATION.—The Secretary shall, for
 2 each year beginning with calendar year 2024,
 3 increase the maximum amounts for the pen-
 4 alties described in clauses (i) and (ii) of sub-
 5 paragraph (A) by a percentage equal to the per-
 6 centage increase in the Consumer Price Index
 7 for All Urban Consumers, published by the De-
 8 partment of Labor, between December 2022
 9 and the December prior to the year for which
 10 the increase takes effect.

11 (4) CIVIL ACTION.—

12 (A) IN GENERAL.—The Secretary may
 13 bring an action in any court of competent juris-
 14 diction on behalf of aggrieved employees to—

- 15 (i) restrain violations of this title;
- 16 (ii) obtain such equitable relief as may
 17 be appropriate, including employment, re-
 18 instatement, and promotion; and
- 19 (iii) in the case of a violation of a cov-
 20 ered provision, recover the damages, inter-
 21 est, and equitable relief described in
 22 clauses (i) through (iv) of subsection
 23 (b)(1)(A).

24 (B) RECOVERY ON BEHALF OF EMPLOY-
 25 EES.—Any sums recovered by the Secretary

1 under subparagraph (A) on behalf of an em-
2 ployee shall be held in a special deposit account
3 and shall be paid, on order of the Secretary, di-
4 rectly to the employee affected. Any such sums
5 not paid to an employee because of inability to
6 do so within a period of three years shall be de-
7 posited in the Treasury and credited to mis-
8 cellaneous receipts.

9 (d) LIMITATION.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), an action may be brought under this sec-
12 tion not later than 2 years after the date of the last
13 event constituting the alleged violation for which the
14 action is brought.

15 (2) WILLFUL VIOLATION.—In the case of such
16 action brought for a willful violation of section 204,
17 such action may be brought within 3 years of the
18 date of the last event constituting the alleged viola-
19 tion for which such action is brought.

20 (3) COMMENCEMENT.—In determining when an
21 action is commenced by the Secretary or by an em-
22 ployee under this section for the purposes of this
23 subsection, it shall be considered to be commenced
24 on the date when the complaint is filed.

25 (e) OTHER ADMINISTRATIVE OFFICERS.—

1 (1) EMPLOYEES COVERED BY CONGRESSIONAL
2 ACCOUNTABILITY ACT OF 1995.—The powers and
3 procedures provided in the Congressional Account-
4 ability Act of 1995 (2 U.S.C. 1301 et seq.) to the
5 Board (as defined in section 101 of that Act (2
6 U.S.C. 1301)), or any person, alleging a violation of
7 section 202(a)(1) of that Act (2 U.S.C. 1312(a)(1))
8 shall be the powers and procedures this title provides
9 to that Board, or any person, alleging a violation of
10 this title against an employee described in section
11 201(2)(C).

12 (2) EMPLOYEES COVERED BY CHAPTER 5 OF
13 TITLE 3, UNITED STATES CODE.—The powers and
14 procedures provided in chapter 5 of title 3, United
15 States Code, to the President, the Merit Systems
16 Protection Board, or any person, alleging a violation
17 of section 412(a)(1) of that title, shall be the powers
18 and procedures this title provides to the President,
19 that Board, or any person, respectively, alleging a
20 violation of this title against an employee described
21 in section 201(2)(D).

22 (3) EMPLOYEES COVERED BY CHAPTER 63 OF
23 TITLE 5, UNITED STATES CODE.—The powers and
24 procedures provided in title 5, United States Code,
25 to an employing agency, provided in chapter 12 of

1 that title to the Merit Systems Protection Board, or
2 provided in that title to any person, alleging a viola-
3 tion of chapter 63 of that title, shall be the powers
4 and procedures this title provides to that agency,
5 that Board, or any person, respectively, alleging a
6 violation of this title against an employee described
7 in section 201(2)(E).

8 (4) COMPTROLLER GENERAL.—In the case of
9 employees of the Government Accountability Office,
10 the authority of the Secretary under this title shall
11 be exercised by the Comptroller General of the
12 United States.

13 **SEC. 206. REGULATIONS.**

14 (a) SECRETARY OF LABOR.—Except as provided in
15 subsections (b) through (e), not later than 180 days after
16 the date of enactment of this title, the Secretary shall
17 issue such regulations as may be necessary to implement
18 this title.

19 (b) BOARD.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of enactment of this Act, the Board
22 of Directors of the Office of Congressional Work-
23 place Rights shall issue such regulations as may be
24 necessary to implement this title with respect to em-
25 ployees described in section 201(2)(C). The proce-

1 dures applicable to regulations of the Board issued
2 for the implementation of the Congressional Ac-
3 countability Act of 1995 (2 U.S.C. 1301 et seq.),
4 prescribed in section 304 of that Act (2 U.S.C.
5 1384), shall be the procedures applicable to regula-
6 tions issued under this subsection.

7 (2) CONSIDERATION.—In prescribing the regu-
8 lations, the Board shall take into consideration the
9 enforcement and remedies provisions concerning the
10 Office and applicable to rights and protections under
11 the Family and Medical Leave Act of 1993 (29
12 U.S.C. 2601 et seq.), under the Congressional Ac-
13 countability Act of 1995 (2 U.S.C. 1301 et seq.).

14 (3) MODIFICATIONS.—The regulations issued
15 under paragraph (1) to implement this title shall be
16 the same as substantive regulations issued by the
17 Secretary to implement this title, except to the ex-
18 tent that the Board may determine, for good cause
19 shown and stated together with the regulations
20 issued by the Board, that a modification of such
21 substantive regulations would be more effective for
22 the implementation of the rights and protections
23 under this title.

24 (c) PRESIDENT.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Presi-
3 dent shall issue such regulations as may be nec-
4 essary to implement this title with respect to em-
5 ployees described in section 201(2)(D).

6 (2) CONSIDERATION.—In prescribing the regu-
7 lations, the President shall take into consideration
8 the enforcement and remedies provisions concerning
9 the President and the Merit Systems Protection
10 Board, and applicable to rights and protections
11 under the Family and Medical Leave Act of 1993,
12 under chapter 5 of title 3, United States Code.

13 (3) MODIFICATIONS.—The regulations issued
14 under paragraph (1) to implement this title shall be
15 the same as substantive regulations issued by the
16 Secretary to implement this title, except to the ex-
17 tent that the President may determine, for good
18 cause shown and stated together with the regula-
19 tions issued by the President, that a modification of
20 such substantive regulations would be more effective
21 for the implementation of the rights and protections
22 under this title.

23 (d) OFFICE OF PERSONNEL MANAGEMENT.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of enactment of this Act, the Office

1 of Personnel Management shall issue such regula-
2 tions as may be necessary to implement this title
3 with respect to employees described in section
4 201(2)(E).

5 (2) CONSIDERATION.—In prescribing the regu-
6 lations, the Office shall take into consideration the
7 enforcement and remedies provisions concerning an
8 employing agency and the Merit Systems Protection
9 Board under subchapter V of chapter 63 of title 5,
10 United States Code.

11 (3) MODIFICATIONS.—The regulations issued
12 under paragraph (1) to implement this title shall be
13 the same as substantive regulations issued by the
14 Secretary to implement this title, except to the ex-
15 tent that the Office may determine, for good cause
16 shown and stated together with the regulations
17 issued by the Office, that a modification of such sub-
18 stantive regulations would be more effective for the
19 implementation of the rights and protections under
20 this title.

21 (e) COMPTROLLER GENERAL.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of enactment of this Act, the Comp-
24 troller General of the United States shall issue such
25 regulations as may be necessary to implement this

1 title with respect to employees of the Government
2 Accountability Office.

3 (2) CONSIDERATION.—In prescribing the regu-
4 lations, the Comptroller General shall take into con-
5 sideration the enforcement and remedies provisions
6 concerning the Comptroller General under title I of
7 the Family and Medical Leave Act of 1993 (29
8 U.S.C. 2611 et seq.).

9 (3) MODIFICATIONS.—The regulations issued
10 under paragraph (1) to implement this title shall be
11 the same as substantive regulations issued by the
12 Secretary to implement this title, except to the ex-
13 tent that the Comptroller General may determine,
14 for good cause shown and stated together with the
15 regulations issued by the Comptroller General, that
16 a modification of such substantive regulations would
17 be more effective for the implementation of the
18 rights and protections under this title.

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